

1 SENATE JOINT MEMORIAL 13

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

3 INTRODUCED BY

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8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

9
10 A JOINT MEMORIAL

11 REQUESTING THAT THE PUBLIC EDUCATION DEPARTMENT, IN
12 COLLABORATION WITH DIRECTORS OF SPECIAL EDUCATION AND OTHER
13 APPROPRIATE SCHOOL PERSONNEL, ADVOCACY GROUP REPRESENTATIVES,
14 PARENTS AND OTHER STAKEHOLDERS, FORM A WORK GROUP TO EXAMINE
15 THE ISSUES AND CONCERNS RELATED TO RESTRAINT AND SECLUSION OF
16 PUBLIC SCHOOL STUDENTS.

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18 WHEREAS, since 2006, attention to issues of physical
19 restraint and seclusion of students has risen across the United
20 States as a result of published accounts of alleged abuse; and

21 WHEREAS, a recent report issued by the United States
22 government accountability office found that there are no
23 federal laws restricting the use of seclusion and restraint of
24 students in public or private schools; and

25 WHEREAS, a report issued by the New Mexico public school

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1 insurance authority indicated that a total of two hundred
2 seventy-one restraint and seclusion instances occurred over a
3 ten-year period in New Mexico schools, at a cost of over four
4 million four hundred thousand dollars (\$4,400,000) in
5 liability; and

6 WHEREAS, New Mexico law addresses physical restraint and
7 seclusion of children only in the Children's Mental Health and
8 Developmental Disabilities Act, which applies only to children
9 in hospitals or psychiatric residential treatment or
10 habilitation facilities, not to students in public schools; and

11 WHEREAS, the public education department reports that two
12 guidance documents have been issued to school districts related
13 to restraint and seclusion; and

14 WHEREAS, those documents state that although physical
15 restraint may be justified in certain instances, that type of
16 intervention may pose a serious risk to the student, as well as
17 to persons applying the restraint;

18 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
19 STATE OF NEW MEXICO that the public education department be
20 requested to create a work group to examine the issues and
21 concerns related to restraint and seclusion of public school
22 students to ensure that every student in every school under
23 state jurisdiction is safe and protected from being
24 unnecessarily or inappropriately restrained or secluded; and

25 BE IT FURTHER RESOLVED that the work group include

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1 representation from directors of special education and other
2 appropriate school personnel, organizations that advocate for
3 the rights of children on this issue, parents and other
4 appropriate stakeholders; and

5 BE IT FURTHER RESOLVED that the work group identify
6 positive behavioral interventions and support systems for
7 improving important academic and behavioral outcomes for all
8 students; and

9 BE IT FURTHER RESOLVED that the work group present its
10 findings and recommendations to the legislative education study
11 committee and other appropriate interim legislative committees
12 during the 2010 interim; and

13 BE IT FURTHER RESOLVED that copies of this memorial be
14 transmitted to the secretary of public education and the
15 director of the legislative education study committee.

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